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13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF ARIZONA

15 C.M., on her own behalf and on behalf of
16 her minor child, B.M.; L.G., on her own
17 behalf and on behalf of her minor child,
18 B.G.; M.R., on her own behalf and on
19 behalf of her minor child, J.R.; O.A., on her
20 own behalf and on behalf of her minor
child, L.A.; and V.C., on her own behalf
and on behalf of her minor child, G.A.,

21 Plaintiffs,

22 v.

23 United States of America,
24 Defendant.
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No. 2:19-CV-05217-SRB

1 A.P.F. on his own behalf and on behalf of
2 his minor child, O.B.; J.V.S., on his own
3 behalf and on behalf of his minor child
4 H.Y.; J.D.G. on his own behalf and on
5 behalf of his minor child, M.G.; H.P.M. on
6 his own behalf and on behalf of his minor
7 child, A.D.; M.C.L. on his own behalf and
8 on behalf of his minor child, A.J.; and
9 R.Z.G. on his own half and on behalf of his
10 minor child, B.P.,

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12 Plaintiffs,

13 v.

14 United States of America,

15 Defendant.

No. 2:20-CV-00065-SRB

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DECLARATION OF STUART F. DELERY

I, Stuart F. Delery, do hereby state and declare as follows:

1. I am a Deputy Counsel to the President. I have held this position since January 20, 2021. As Deputy Counsel to the President, my responsibilities include, among other things, providing legal advice to the President and other White House officials, including on matters involving the invocation of the presidential communications privilege. From 2009-2016, I served in senior positions at the Department of Justice, including as the Assistant Attorney General for the Civil Division and as the Acting Associate Attorney General of the United States, the third-ranking position at the Department. In these roles, I advised on, and supervised litigation concerning, assertion of Executive Branch privileges, including the presidential communications privilege.

2. I base this declaration on my personal knowledge and information made available to me in the performance of my official duties. I do not have personal knowledge of the events that gave rise to this litigation.

3. I am aware that documents produced in these cases have been redacted on the basis of one or more privileges, including the presidential communications privilege. I

1 understand that descriptions of these documents have been provided to Plaintiffs in a
2 privilege log prepared by the government.

3 4. I hereby assert, on behalf of the Office of the President, the presidential
4 communications privilege with respect to the documents, or portions thereof, identified in
5 paragraphs 9 – 13 of this Declaration. I have personally reviewed the documents subject to
6 this assertion. The Office of the President is not asserting the presidential communications
7 privilege for any other documents previously withheld, in whole or in part, from the January
8 15, 2021 production.

9 5. I understand that the government also is asserting other privileges, such as the
10 Department of Justice's assertion of the deliberative process privilege, with respect to
11 documents to be re-produced on April 9, 2021. The fact that my assertion is limited to the
12 presidential communications privilege is in no way intended to suggest that the documents
13 and information cited herein, or other documents, are not protected by other privileges.

14 6. As an institutional matter, White House advisors regularly meet or
15 communicate with senior officials from the Department of Justice and other federal agencies
16 in the course of their duties to assist the President in formation of Executive Branch policy,
17 facilitate presidential decisionmaking, provide advice to the President, and implement the
18 President's decisions. These meetings and communications assist presidential advisors in
19 conveying information and recommendations to the President, and in turn, assist in the
20 President's decisionmaking process. All Presidents rely on their advisors to analyze issues,
21 solicit the advice of those with significant expertise in relevant areas, and consider various
22 options. This candid discourse among the President, his advisors, and agency officials is
23 necessary to ensure that the Executive Branch functions properly.

24 7. Supreme Court and Ninth Circuit precedent, historical practice across
25 administrations of both parties, and the longstanding position of the Department of Justice's
26 Office of Legal Counsel all confirm that the presidential communications privilege protects
27 documents involving the President or other senior White House officials that are prepared
28 in connection with presidential decisionmaking. Communications and documents created
during that process are appropriately protected by a constitutional privilege so that

1 presidential advisors and the individuals from whom they solicit information and
 2 recommendations may provide candid advice and proposals, including those related to novel
 3 or controversial approaches to consequential issues. Without this protection, the President
 4 would be deprived of informed, frank, and valuable advice. Such a situation would impede
 5 the decisionmaking process of the President.

6 **Documents**

7 8. On behalf of the Office of the President, I hereby assert the presidential
 8 communications privilege over nine unique documents, as well as duplicates or variants of
 9 those nine documents. Accordingly, I am asserting the presidential communications
 10 privilege over 60 total documents listed on the privilege log for the January 15, 2021
 11 production.

12 9. **Documents Concerning a June 5, 2018 Principals Committee Call**

13 On June 5, 2018, the White House hosted a call with the members of President
 14 Trump's Immigration Principals Committee. A Principals Committee is a senior
 15 interagency forum for consideration of policy issues, typically attended by senior White
 16 House advisors, including Assistants to the President, and Cabinet secretaries from agencies
 17 with jurisdiction over the subject area under discussion. According to the document,
 18 attendees at this June 5, 2018 meeting included officials from the Department of Homeland
 19 Security and the Department of Justice, as well as White House advisors, including the
 20 Deputy Chief of Staff, the White House Counsel, and an Assistant to the President and
 21 Senior Advisor.

22 Documents CD-US-00015613A and CD-US-00016108A contain the e-mail thread
 23 "Summary of Conclusions: Immigration Principals Call 6/5." The document is a cover e-
 24 mail circulating the draft Summary of Conclusions to meeting attendees. The redacted
 25 portion of the document is an e-mail from the Secretary of the Department of Homeland
 26 Security, Kirstjen Nielsen, commenting on the substance of what was discussed at the
 27 meeting and requesting language be included in the Summary of Conclusions.

28 Documents CD-US-00015611A - 15612A, CD-US-00015616A - 15617A, CD-US-
00016103A - 16104A, CD-US-00016106A - 16107A, CD-US-00016110A - 16112A are

versions of the document “Summary of Conclusions, Immigration Call.” On its face, this document reflects deliberations at the Principals Committee Meeting on June 5, 2018 and was drafted by White House employees and circulated to meeting attendees for review and comment.

10. **Document Relating to a June 22, 2018 Principals Committee Meeting**

On June 22, 2018, the White House convened a meeting of its Immigration Principals Committee. The documents do not identify the attendees at the meeting, but the use of the term “Principals Committee” across administrations and in other documents in the January 15, 2021 production indicates that this term refers to a meeting of senior presidential advisors.

Documents CD-US-00015183A and CD-US-00015332A are part of the e-mail thread “Draft Summary of Conclusions from Immigration PC.” The redacted portion of the document contains a quote from the draft Summary of Conclusions, which was circulated to meeting attendees for review and comment in an email from the White House Policy Coordinator, and signed by the White House’s Deputy Chief of Staff for Policy.

Documents CD-US-00015767A and CD-US-00016301A are part of the e-mail thread “DRAFT Summary of Conclusions from Immigration PC.” The redacted portion of the document is an e-mail from the White House Policy Coordinator detailing requested edits to the draft Summary of Conclusions.

Documents CD-US-00015185A, CD-US-00015334A, CD-US-00015758A, CD-US-00015769A – 15770A, CD-US-00016300A, and CD-US-00016303A – 16304A are versions of the draft document “Summary of Conclusions Border Security Implementation PC.” The document was created by White House staff and circulated to meeting attendees. It memorializes outcome of deliberations at the Principals Committee.

11. **Documents Concerning a June 26, 2018 Principals Committee Meeting**

On June 26, 2018, the White House convened an Immigration Principals Committee Meeting.

Documents CD-US-00015191A – 15192A, CD-US-00015194A, CD-US-00015340A – 15341A, CD-US-00015343A, CD-US-00015790A, and CD-US-00016346A

are versions of the document entitled “Immigration Principals Meeting.” This document was prepared by White House staff and was circulated to attendees prior to the Principals Committee Meeting. It is a draft substantive agenda setting forth the topics that will be discussed during the Principals’ meeting and outlines various immigration action proposals for consideration by senior presidential advisors. The first page of the draft agenda has been redacted. Redactions for the presidential communications privilege appear on a portion of the document.

Documents CD-US-00015196A, CD-US-00015197A, CD-US-00015198A – 15199A, CD-US-00015200A – 15201A, CD-US-00015202A – 15203A, CD-US-00015204A – 15205A, CD-US-00015206A – 15207A, CD-US-00015208A – 15210A, CD-US-00015211A – 15213A, CD-US-00015214A – 15216A, CD-US-00015345A – 15347A, CD-US-00015348A – 15350A, CD-US-00015351A – 15353A, CD-US-00015354A – 15355A, CD-US-00015356A – 15357A, CD-US-00015358A – 15359A, CD-US-00015360A, CD-US-00015361A, CD-US-00015362A – 15363A, CD-US-00015364A – 15365A, CD-US-00015792A, CD-US-00015798A – 15800A, CD-US-00015801A – 15802A, CD-US-00016348A, CD-US-00016349A – 163351A, CD-US-00016352A – 16354A, CD-US-00016355A – 16356A, and CD-US-00016357A – 16358A contain the e-mail thread “Summary of Conclusions: Immigration PC 6.26.” The redacted portions of the e-mail thread memorialize portions of what was discussed at the Principal Committee’s meeting.

12. **Documents Referencing Topics from a Principals Committee Meeting Summary of Conclusions**

Documents CD-US-00015151A, CD-US-00015304A, CD-US-00015705A, CD-US-00015737A, CD-US-00016240A, CD-US-00016249A, CD-US-00016251A, CD-US-00016271A are part of an e-mail thread, “Agenda for 4:30 PM.” The redacted portion of the e-mail references specific topics that were discussed in a Summary of Conclusions document from an earlier Principals Committee Meeting.

13. **Documents Referencing a Meeting with the President**

1 Document CD-US-00014915A is an internal e-mail thread among Department of
2 Justice officials, including the now-former Deputy Attorney General, Rod Rosenstein,
3 “APA (Internal): Meeting with the Chief of Staff.” The three redacted lines of the e-mail
4 thread reference a meeting with President Trump and the subjects that will be discussed at
5 that meeting as well as at a second White House meeting.

6 14. Each of the documents cited in paragraphs 9 – 13 herein reflects or contains
7 communications with close presidential advisors for the purpose of presidential
8 decisionmaking. Thus they were central to the presidential decisionmaking process that the
9 presidential communications privilege was intended to protect from disclosure.

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11 I declare under penalty of perjury that the foregoing is true and correct to the best of
12 my knowledge and belief.

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16 Stuart F. Delery
17 Deputy White House Counsel
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